

Appl. No. 09/639,011
Amdt. dated August 20, 2004
Reply to Final Office Action of June 21 2004

REMARKS

5 This communication is responsive to Final Office Action of **June 21, 2004** in which all remaining claims were rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau et al., U.S. Patent No. 6,438,585, in view of Eldridge et al., U.S. Patent No. 6,430,601.

10 The Applicant respectfully requests that the Examiner reconsider his reliance of the Mosseau '585 patent which is a Continuation-in-Part and withdraw the final rejection. The suggested grounds for the withdrawal are that any in-part subject matter included in the '585 patent and relied on by the Examiner should not be part of the record since the priority date for the in-part matter is the filing date of the '585 patent. The filing date of the Mosseau '585 CIP patent is Jan 16, 2001 which is more than one year after the Applicant's priority date of December 13, 1999.

15 The related U.S. Application Data section on the cover of the Mosseau '585 patent states that all priority documents are Continuations-in-Part. "*Continuation-in part of Application No. 09/545,963, filed on April. 10 2000, and a Continuation-in-part of Application No. 09/087,632, filed on May 29, 1998.*" (Mosseau '858 patent cover sheet Related U.S. Application Data).

20 The Applicant is unable to find an application to this same inventive entity with serial number 09/087,632. The Applicant has been able to find an Application with serial number 09/087,623 which issued as U.S. Patent 6,219,694.

25 Assuming, arguendo, that the cited reference, i.e. the '585 patent, is entitled to the '694 patent as a priority document, the Applicant is able on cursory inspection to make the following observations. The '694 patent has only FIGS. 1-5 and accompanying 14 columns of specification. The Mosseau '585 reference has 4 additional FIGS. 6-9 and the accompanying specification includes added columns of disclosure 14-18. These added drawings and columns of the specification, e.g. Col. 15, line 46 though Col. 16, line 60,

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were relied on by the Examiner in, formulating his final rejection of all Applicant's amended claims in the Final Office Action of 6/21/2004. (Final Office Action of: 6/21/2004 at pages 2,3 and 4).

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CONCLUSION

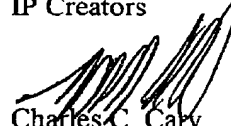
In view of the above remarks, Applicant respectfully requests that the Final Office Action be withdrawn and that prosecution on the merits resume.

Early notice to this effect is solicited.

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Respectfully submitted,

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